

DOCKET NO.: 245426US6/mms

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

GROUP: 2627

Masataka SHINODA

SERIAL NO: 10/713,014

EXAMINER: NGUYEN, L.T.

FILED: November 17, 2003

FOR: OPTICAL LENS, CONDENSER LENS, OPTICAL PICKUP, AND OPTICAL
RECORDING/REPRODUCING APPARATUS

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

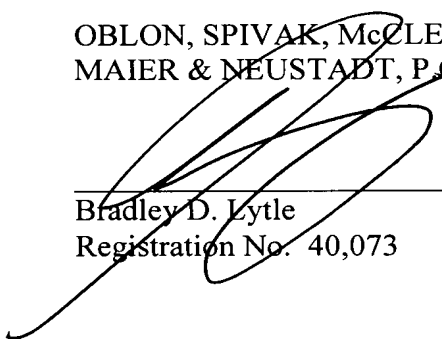
This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s). No more than five (5) pages are provided.

I am the attorney or agent of record.

Respectfully Submitted,

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IN RE APPLICATION OF :
MASATAKA SHINODA : EXAMINER: NGUYEN, L.
SERIAL NO: 10/713,014 :
FILED: NOVEMBER 17, 2003 : GROUP ART UNIT: 2627
FOR: OPTICAL LENS, CONDENSER :
LENS, OPTICAL PICKUP, AND OPTICAL
RECORDING/REPRODUCING
APPARATUS

REMARKS ACCOMPANYING PRE-APPEAL BRIEF REQUEST FOR REVIEW

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Claims 1, 3-4, 6-8, and 10-13 are pending in the application.

In the Final Office Action of November 21, 2007 (herein, the Final Office Action), Claims 1, 3, 4, 6-8, and 10-13 were rejected under 35 U.S.C. § 103(a) as unpatentable over Takeshi (JP Pub. No. 11273126) in view of Nuss (U.S. Patent No. 5,789,750) and Pakdaman et al. (U.S. Patent No. 6,594,086, herein Pakdaman).

Applicant respectfully traverses this rejection, as independent Claims 1, 3, 4 and 8 recite novel features clearly not taught or rendered obvious by the applied references.

Independent Claim 1, for example, recites an optical lens comprising:

an optical material comprising an *SiC single crystal*
having a cubic structure...

Independent Claims 3, 4, and 8, while directed to alternative embodiments, recite similar features. Accordingly, the remarks and arguments presented below are applicable to each of independent Claims 1, 3, 4, and 8.

The Office Action relies on Takeshi as disclosing an optical lens comprising an optical material comprising a SiC. More specifically, the Office Action relies on paragraph [0007], ll. 5-6 of Takeshi, which describes that silicon carbide may be used as an ingredient for forming a solid immersion lens.

Takeshi, however, fails to disclose that the optical lens includes an optical material comprising an *SiC single crystal*, as recited in independent Claims 1, 3, 4 and 8. More particularly, Takeshi describes that the lens may be formed of silicon carbide, but fails to disclose that the silicon carbide is an *SiC single crystal*, as claimed.

In maintaining this rejection, the Advisory Action of February 12, 2008 (herein, the Advisory Action) makes the generalization that “the characteristic of silicon structure is a single crystal as can be found in the Wikipedia encyclopedia under ‘Notable Characteristics.’” However, the Wikipedia entry relied upon in the Advisory Action is for only “Silicon,” not silicon carbide, and briefly describes that “[t]he electrical resistance of single crystal silicon significantly changes under the application of mechanical stress due to the piezoresistive effect.” Based on this description, the Examiner seems to extrapolate that the silicon carbide mentioned in Takeshi is necessarily SiC single crystal.

However, SiC single crystal is clearly not the same as silicon. More particularly, as described in the example at pp. 30-32 of the specification, glass material in similar applications may use other silicon compositions, such as SiO₂, which is not single crystal SiC. Thus, not all silicon compositions are single crystal in structure, and the Wikipedia entry merely describes single crystal as being one possible structure of silicon. Therefore, the Examiner’s reliance on a Wikipedia entry for silicon, with a passing mention of properties of

single crystal silicon, can not reasonably be used as a basis to extrapolate that the silicon carbide described in Takeshi is necessarily single crystal.

Further, Wikipedia is an unreliable source of information because the website is constantly changing, and may be manipulated by users accessing the website. Therefore, not only does the Wikipedia entry fail to properly support the Examiner's position, but the use of the resource itself is improper.

Nuss is relied upon as disclosing an optical lens made of silicon having a cubic crystal structure. More specifically, the Office Action relies on col. 5, ll. 49-54 of Nuss, which describes that silicon is suitable for a substrate lens 36 because of its cubic crystal structure.

Nuss, therefore, describes that the substrate lens may be formed of silicon having a cubic crystal structure, but also fails to disclose the lens includes a *SiC single crystal*, as claimed.

Pakdaman, at col. 7, ll. 31-32, describes forming a lens from silicon to provide a matching index, but fails to disclose any of the more detailed aspects of the lens material, as claimed.

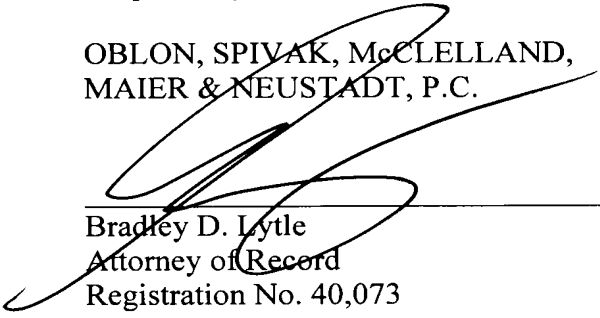
Therefore, Takeshi, Nuss and Pakdaman teach or suggest an optical lens comprising "an optical material comprising an *SiC single crystal* having a cubic structure," as recited in independent Claims 1, 3, 4 and 8.

Accordingly, Applicant respectfully requests the rejection of Claims 1, 3, 4, and 8 (and the claims that depend therefrom) under 35 U.S.C. § 103 be withdrawn.

Based on the above-noted deficiencies in the outstanding rejections, Applicant respectfully requests that those rejections be withdrawn or properly supported.

Respectfully submitted,

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